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A)

## Issues Presented for Review

- 1) Did the district court Err when it denied Mr. Trader's Motion to Suppress and approved the government's warrantless Seizure and Search of his IP address history and account Information? Did Mr. Trader have a reasonable expectation of privacy in his physical movements and location Information? Are the privacy concerns heightened by the fact that the government tracked Social Media activity, chronicling each time a message was sent or received on Mr. Trader's Cell Phone, for 30 days, without a Judicial order, administrative Subpoena, or a Showing of Probable cause?
- 2) Did Mr. Trader have a reasonable expectation of Privacy in voluminous location records generated by use of his Cell Phone and held by a third party, when those Records are a distinct category of Information?
- 3) Did Exigent Circumstances exist to Support the Search of Mr. Trader's Historical IP Addresses?
- 4) Did the district court Err when it denied Mr. Trader's Motion to Suppress without holding an Evidentiary hearing?
- 5) Should all "fruits" of the unlawful Search be Suppressed?

B) The Government Violated Mr. Trader's expectation of Privacy in his physical movements when it Requested 30 Days of Location Information without a warrant.

When Homeland Security Sent an Emergency Disclosure Request to Kik, compelling them to produce and Disclose All "Recent IP Addresses used by the account holder" In ■ Addition to the basic Subscriber Information Such as "The last known customer Name and E-Mail Address", The government Violated Mr. Trader's fourth Amendment Rights against an unreasonable Search and Seizure. This warrantless Seizure and Search resulted in the government obtaining over 30 Days of Locational Information. Here, the government exercised unfettered discretion when it requested an unlimited amount of IP Address and Account Activity history Without Probable cause. Kik disclosed not just basic Subscriber information, But also 26 pages of IP addresses, Remote Ports which were accessed, the connection type used, The Transactional Chat log timestamp, and the corresponding date and time that each Message was Sent and Received on the application. This information totals 593 different location points over 30 Days, the time and Date Mr. Trader was at each location, and the make, Model, and operating System of the device used, along with device specific Identifying Information.<sup>①</sup> (DE Kik Disclosure)

The Supreme Court in *Carpenter* agreed that Mapping the past movements of a cell phones location over 7 days "Provides an all-encompassing record of the holder's whereabouts. As with GPS information, the time-stamped data provides an intimate window into a person's life, revealing not only his particular movements, but through them his familial, political, Professional, religious, and sexual associations". Here, The government was essentially given Data that was equally as invasive as the C.S.L.I. at issue in *Carpenter*. Because of the location information given to Homeland Security, the agents here were not only able to identify and locate Mr. Tracker, but also were able to look through that "Intimate window" to see where Mr. Tracker Spent most of his time, his home. Since 413 of the 593 location points were from the same IP Address, and connected through WiFi, the government was able to place the device, and by default, the owner of the device the K.K account was on, at the physical location the IP address was registered to. Because WiFi access is password restricted, and the password for that particular account needs to be [REDACTED] entered on the Device at least one time before connecting to it, the government was able to conclude the device the K.K account was on, and by proxy its owner, was not only at that residence, but knew the password to the WiFi, and therefore established a solid connection with the residence.<sup>(2)</sup>

Moreover, because Agents had Mr. Trader's location information, the government was able to pinpoint exactly where Mr. Trader would be in the future, and when he would be there. A mapping of the account activity for Mr. Trader's Kik account reveals that through the overnight hours, every night from May 1<sup>st</sup> 2017 through May 31<sup>st</sup> 2017, the device that held the Kik application, Mr. Trader's cell phone, was at only one location whenever a text message was sent or received. This "intimate window into [Mr. Trader's] life" revealed where he was 30 consecutive nights, during a time when most Americans would be asleep, in their beds, at their home. Coincidentally, the search of Mr. Trader's residence occurred the very next night the location records ended, the morning of June 1<sup>st</sup> 2017. And at the very same time his records indicated he would have been there, at 1:10 am. Indeed, Agents never physically observed Mr. Trader at the residence, because they did not need to. They had already had him under <sup>round the clock</sup> surveillance for 30 days prior to the search.

"The retrospective quality of the data here gives police access to a category of information otherwise unknowable. In the past, attempts to reconstruct a person's movements were limited by a dearth of records and the frailties of recollection. With access to [the location information here], the government can now travel back in time to retrace a person's whereabouts... Police need not even know in advance whether they want to follow a particular individual, or when... whoever the suspect turns out to be, he has effectively been tailed every moment of every day... Without regard to the

<sup>10</sup> "Constraints of the Fourth Amendment". Carpenter, 138 S.Ct. at 2218.

Additionally, the government was able to learn the habits and patterns of Mr. Tracer through the release of his account data. At the very least, by mapping his location, the government is able to

deduce the daily routine of Mr. Trader, from one day to the next. For example, without identifying any other locations besides Mr. Trader's home, the government is able to conclude not just whenever Mr. Trader was within his home, but also his movements to and from his home, and the amount of time in between. This is done simply by examining the data. An IP address gives a user's exact location, and since the government knows the exact location of IP address 76.110.46.234 is Mr. Trader's home, then "It is simple common sense to think that if one knows the location [of the ip address] from which a user is using the Kik app", then one must also know that user's movements to and from that location, and from one location to the next, using the same record of historical IP addresses. (DE 14:13-14) For example, out of 30 days of location data the government possessed, the records show that for 22 days, during normal business hours, the particular IP addresses that correspond with ALL of the account activity within that specific "window", were not the IP address associated with Mr. Trader's home, and were not connected through Mr. Trader's home WiFi connection.

There is however, a record of multiple location points, made through several different IP addresses, all connected through Mobile LTE and Mobile Hot Spot Data, throughout the 30 days of records, for that very same "window." This means that one could very easily establish a pattern that between those hours, on those days, Mr. Trader's cell phone was and would be located somewhere other than his home.

But that is not all. That is just some of the information gathered by this chronicle of Mr. Trader's past movements. Consider a total of 583 location points, from 42 different IP addresses. 413 points show Mr. Trader at 1 IP address, his home. This means there are 180 location points from 41 other IP addresses, connecting over the mobile LTE and mobile hot spot networks. Put simply, from May 1<sup>st</sup> 2017 through May 31<sup>st</sup> 2017, there were 41 other locations Mr. Trader was, and 180 times Mr. Trader was at those locations. All of those locations were somewhere other than his home when he sent or received a text message from his cell phone, or the KIK application. With the data generated from each message, the government possessed the means to get the exact location Mr. Trader's phone was at those times. During the month of May 2017, some of those locations correspond to: Several stops along Mr. Trader's route while at work as a pool technician, trips Mr. Trader made to the carry out house, various trips to different stores and restaurants with his family, family trips and vacations to Orlando theme parks, and multiple trips on public roadways.

in a vehicle, among others.

The tracking of a person's past movements is exactly the issue considered in Carpenter, the only difference in Mr. Trader's case is, it is done in the form of an IP address instead of CSLI. Both portray many of the qualities of GPS Monitoring the Supreme Court Considered in Jones. "It is detailed, <sup>Carpenter, 138 S.Ct. 2206, 2216</sup> encyclopedic, and effortlessly compiled". Here the data is, Intimate, comprehensive, in-expensive, retrospective, and in-voluntary. Both cases reached the same conclusion, which should be applied and extended here. Mr. Trader "has a reasonable expectation of privacy in the wake of his physical movements". See: Carpenter, 138 S.Ct 2206 <sup>416 U.S. 430-431</sup>, Jones, 565 U.S. 400, ~~■~~, 132 S.Ct. 945, 956, 261 U.S.L.J. 2d 911 (2012)

Furthermore, there is no question that people have an expectation of privacy in their home. Numerous times, the Supreme Court has been confronted with crucial questions regarding the application of the Fourth Amendment in ones home, and have said that the Fourth Amendment draws a firm line at the entrance to the house. That line, we think, must not only be firm, but also bright - which requires clear specification of those methods of surveillance that require a warrant". Kyllo, 533 U.S. at 40. "Searches and Seizures inside a home without a warrant are presumptively unreasonable absent exigent circumstances". Karo, 468 U.S. at 714-15 (collecting cases).

Inspection of 593 Historical IP addresses, spanning 30 days, invaded an even greater privacy interest than the single day searches challenged in Karo and Kyllo because of the mere amount of information collected, <sup>Since</sup> ~~and~~ 413 of the location points occurred in Mr. Tracer's home. Similar to the searches challenged in Karo, Kyllo, and Carpenter, examination of those historical IP address location points allowed the government to place Mr. Tracer and his cell phone at home at specific points 413 different times.

"In the home, our cases show, all details are intimate details, because the entire area is held safe from prying government eyes". Kyllo, 533 U.S. at 37. "The Karo and Kyllo courts recognized the location of a person and her property within a home at a particular time as a 'critical' private detail protected from the government's intrusive use of technology". U.S. v. Graham, 746 F. 3d 332 (4th Cir. 2015) at 346 - 47; See Kyllo, 533 U.S. at 37; Karo, 468 U.S. at 715.

There exists a minimal expectation that people have privacy in their home, and this expectation has been acknowledged to be reasonable. Kyllo, 533 U.S. at 34. "To withdraw protection of this minimum expectation would be to permit police technology to erode the privacy guaranteed by the Fourth Amendment. We think that [ ] obtaining by [location] technology any information regarding the interior of the home that could not otherwise have been obtained without physical intrusion into a constitutionally protected area . . .

Constitutes a Search... at least where [as here] the technology in question is not in general public use. This assures preservation of that degree of privacy against government that existed when the fourth amendment was adopted".

Here, the violation of privacy is obvious, because the government used the historical IP addresses to locate Mr. Trader in his home on 413 occasions. When it requested disclosure to Kik, the government did not know the identity of the owner to the Kik account, or his location. Those historical IP addresses were critical information, because it led the government to Mr. Trader, and his home. The government used technology not available to the general public to essentially reach through Mr. Trader's Social Media account, into his home, A Protected Space, to identify and locate him. If nothing else, Mr. Trader's expectation of privacy in his historical IP addresses when home, and in his physical movements to and from his home, are subjective and reasonable.

c) Mr. Trader had a reasonable expectation of privacy in his historical IP addresses, despite them being held by a third party, because location information is a distinct category of information.

Information in the hands of a third party is not categorically excluded from protection under the fourth amendment. See: Carpenter v. U.S., 138 S.Ct. 2206 (2018); Ferguson v. City of Charleston, 121 S.Ct. 1281, 1288 (2001); U.S. v. Jacobsen, 466 U.S. 109, 114 (1984); Stoner v. California, 376 U.S. 483, 487-88, 490 (1964). In determining which information is entitled to fourth amendment protection, courts should administer a "multifactor analysis - considering intimacy, comprehensiveness, expense, retrospectivity, and voluntariness". See Carpenter, 138 S.Ct. at 2217 (Kennedy, J., dissenting) Carpenter, 138 S.Ct. at 2217-2223

Smith and Miller are distinguishable from this case for multiple reasons. First, the retrospective nature of 593 location points over a period of 30 days are significantly more revealing than the limited three days of call records in Smith. In Smith, the defendant physically dialed each number that appeared in the record the government obtained. As in Miller, the defendant physically wrote the information on the bank records obtained by the government. Here, the IP address history and account data collected by Kit are automatically generated without any active participation or submission by the user. These records

Contain information that is comprehensive in terms of the physical places the user was, and the time the user was at those physical locations, making the records here entirely different in quantity and quality from the data generated by a simple landline phone, and possess many more intimate details about ones life. In many cases, as here, this information is gathered about a suspect before that person is even suspected of a crime, and at very little expense to the government as opposed to what this type of information would have cost the government in round the clock surveillance at the time Smith and Miller were decided.

Simply put, the court should not rely on antiquated cases to determine how to protect historical IP addresses, and related data, especially when it reveals private, protected location information. See: Carpenter, 138 S.Ct. 2266, 2279-80 (recognizing a right to privacy in "historical cell phone records that provide a comprehensive chronicle of the user's past movements") See: Riley, 134 U.S. Ct. at 2488-91 (Recognizing that cell phones store "qualitatively different" data that discloses revealing information as compared to physical records of the past). See: Jones, 132 S.Ct. 945 (2012) (recognizing a person's expectation of privacy in his physical [redacted] location and movements.)

Second, Smith and Miller do not reflect the realities of modern society, and its intersection with technology. Today we share much more information about [redacted] ourselves with third party's

Mereiy as a by-product of the differences in how we perform tasks: we E-mail instead of writing letters, we text instead of calling, we read books and newspapers online ~~or~~ <sup>through</sup> our mobile device instead of on paper, etc. As Justice Sotomayor noted, Smith and Miller's basic "premise" is "ill-suited to the digital age, in which people reveal a great deal of information about themselves to third parties in the course of carrying out mundane tasks". Jones, 132 S.Ct. at 957 (Sotomayor, J., concurring). Having in our subjective expectations of privacy, Justice Sotomayor doubted "People would accept without complaint the warrantless disclosure" of information to the government from their ISP's like the URL's they visit or their e-mail addresses with which they correspond. It is this reasoning that led the court in Carpenter to conclude that "there is a world of difference between the limited types of personal information addressed in Smith and Miller and the exhaustive chronicle of location information casually collected by wireless carriers today". Carpenter, 138 S.Ct. at 2219

The Supreme Court in Carpenter found five principle reasons for deciding that an individual has a reasonable expectation of privacy in cell phone location information, despite that information being in the hands of a third party. In doing so, the court First considered if the information at issue was "Truly Shared... Voluntarily" or was it generated "by dint of its operation, without any affirmative act on the part of the user". Id. at 2220. Second, the court considered how "comprehensive" the

Category of information is, including reason Three, "The retrospective quality of the data" that would have been "Otherwise Unknowable" because of the Fourth reason, the amount of "Intimate" Information collected, such as a "Chronicle of the User's Past Movements", "Providing] an all-encompassing record of the holder's whereabouts" including, as here, when a "Cell Phone faithfully follows its owner beyond public thoroughfares and into private residences, doctor's office's, political headquarters, and other potentially revealing locales", at Five, "Practically no expense" to the government. The court noted that "Cell phone tracking is remarkably easy, cheap, and efficient compared to traditional investigative tools" and pointed out that "In the past, attempts to reconstruct a person's movements were limited by a dearth of records and the frailties of recollection", but with Cell phone location information, "The government can now travel back in time to [REDACTED] retrace a person's whereabouts". *Id.* at 2218

This court can and should apply the five principle reasons cited in Carpenter, to this case, because as the government themselves admit, "The holding and [REDACTED] rationale in [Carpenter] is essentially the same as the issue here, but it involved historical cell tower information from a phone company rather than subscriber information from a smartphone application company". (DE 14:8) The government will attempt to now distinguish historical cell tower Data from Subscriber Information, but there is an ample precedent of case's that call

CSL I, exactly that.

There is however, a gigantic difference between "basic" Subscriber Information, and the "distinct category of [Subscriber] Information" at issue here, and as was the case in Carpenter. While both are revealing, it is the sheer volume of the data the government received that caused the Fourth Amendment violation. If the government had requested one specific location, at one specific point in time, or simply asked for the last location point accessed, the Fourth Amendment Violation may not have occurred. That is the difference between "basic" and "distinct" Subscriber information as the Supreme Court has now explained.

Applying Carpenter's "Multi-factor analysis" to Mr. Trader's case, this court should find that: First, KIK generated a plethora of data everytime Mr. Trader sent or received a text message, including information which was not "truly Shared... Voluntarily", but information which was generated "by dint of its operation, without any affirmative act on the user", such as the physical location Mr. Trader was, and the time he was there. Second, The court should find how "comprehensive" this "Distinct category of information" IS, including 26 pages of Location Information, detailing the historical IP addresses, the remote ports accessed, the connection type used, and the date and time of each message connection, among other things. Third, "The retrospective quality of the data" is enormous. This includes 30 days worth of location information,

totaling 593 location points and 42 different IP addresses, information that would have been "otherwise unknowable" because of:  
Four, The amount of "Intimate" Information collected, such as the chronicle of [Mr. Trader's] past movements" which "provide as all encompassing record of [Mr. Trader's] whereabouts" since his "Cell phone faithfully followed its owner beyond public thoroughfares and into private residences, doctor's offices, political headquarters, and other potentially [REDACTED] revealing locales" at five, "Practically no expense" to the government. The Surveillance by Mr. Trader's own cell phone "IS remarkably easy, cheap, and efficient compared to traditional investigative tools". "The government [was able to] travel back in time to retrace [Mr. Trader's] whereabouts".

"In our time, unless a person is willing to live 'off the grid', it is nearly impossible to avoid disclosing the most personal of information to third-party providers on a constant basis, just to navigate daily life. And the thought that the government should be able to access such information without the basic protection that a warrant offers is nothing less than chilling". Davis, 785 F.3d at 525 (Rosenbaum, J., concurring).

In Davis, the now abrogated 11th Circuit equivalent to Carpenter, Judge Rosenbaum concurred in the outcome, but expressed that the third party doctrine warranted additional consideration and discussion:

"When, historically, we have a more specific expectation of privacy in a particular type of information, the more specific privacy ~~interest~~ interest most govern the fourth amendment analysis, even though we have exposed the information at issue to a third party by ~~using~~ using technology to give, receive, obtain, or otherwise use the protected information. In other words, our historical expectations of privacy do not change or somehow weaken simply because we now happen to use modern technology to engage in activities in which we have historically maintained protected privacy interests. Neither can the protections of the fourth Amendment."

- Davis, 785 F. 3d at 524-25, 532 (Rosenbaum, J., concurring)

The court in Carpenter took a stand, firmly declaring that it "IS obligated - as subtler and more far-reaching means of invading privacy have become available to the government - to ensure that the progress of science does not erode fourth amendment protections. Here, the ~~progress~~ <sup>In Nat'l 2223</sup> Progress of Science has afforded law enforcement a powerful new tool to carry out its important responsibilities. At the same time, this tool risks government encroachment of the sort the framers after consulting the lessons of history, drafted the fourth Amendment to prevent". The court then held that before using this new technology, "The government's obligation is a familiar one - GET A WARRANT". Carpenter, 138 S.Ct at 2221

In order to identify and locate Mr. Tacker,

The government used his historical IP Addresses to precisely locate him within his home, where his 30 Days of Location Information Showed he would be. At the exact time his information Said he would be there. Even if Mr. Trader knew that KIK was keeping certain Data, It was not obvious that they were tracking his location, and Storing that information for [REDACTED] an extended period of time. It is nonsensical that the government Should be able to obtain any record tracked and held by a third party, because there would almost never be a need to obtain a warrant for private information. Data in the hands of a third party will only increase as technology advances, and unfettered access to this data would inevitably lead to the governments increased access to intimate details of peoples lives.

"Such a chronicle implicates privacy concerns far beyond those considered in Smith and Miller". Carpenter, [REDACTED] 138 S.Ct at 2220

D) Mr. Trader's case is distinguishable from all case's prior to Carpenter which have dealt with the question of Fourth Amendment protection as it relates to an IP address.

Almost all Federal Courts prior to Carpenter had concluded [REDACTED] that Internet users have no expectation of privacy in their IP address and related subscriber information. However, these case's are distinguishable from Mr. Trader's. First, a user's IP address and IP Address history are not the same. A user's IP Address is the current identification number assigned to their account by the Internet provider. In this case, that number is 76.110.46.234, and the provider is Comcast. By accessing the internet at Mr. Trader's residence, he identified his connection, using the IP address for that location, through the provider's equipment. For instance, when H.S.I. in this case sent its request for disclosure to Comcast, it asked them for the "Subscriber identification information" for "76.110.46.234" the user's IP address. That is Singular, not Plural. The Agents asked for information for one IP address. A user's IP Address history (Historical IP Addresses) is a log of All IP Addresses that have been in connection to the account activity, regardless of the provider or the location identified by the number. For example, when H.S.I. in this case sent its request for disclosure to KIK, it asked them for all "Recent IP addresses" that were "Used by the account holder". That is Plural, not Singular. There is a gigantic difference between the two and it's an important one,

because one discloses "basic subscriber information" and the other, a "distinct category of information". The latter is at issue here as opposed to prior cases. Second, A history of IP addresses from a Smartphone user, who accessed the Social Media Service only through an application on his Smartphone, provides information on the location of the device by default connection, i.e., the history of IP addresses. This violates the Smartphone user's expectation of privacy in the whole of his physical movements.

Prior cases were not just before the Supreme Court decided Carpenter, but also did not tackle the issue of a cell phone user accessing the internet through his phone. These prior cases involve computer's like desktops that are not mobile, or laptops that are mobile, but still have to be at a physical location to connect to the internet via a wired or wifi connection. The data at issue here, although contains multiple connection's via wifi to Mr. Trader's home, a physical location, also contains numerous connections to the internet via mobile LTE and hot spot access. More importantly however, is the fact that the government knew that the records they were seeking belonged to a user who was accessing the internet through a smartphone, and a smartphone application, and knew what information they were going to receive back from Kik. (DE 14-1 : 8-9) (DE kik guide to law enforcement) That means that while Mr. Trader was traveling from location to location sending and receiving text messages, his social media service was following him, recording his movements through IP addresses, and the government

Knew all about it.

To put this in prospective, Mr. Trader could have been traveling on Interstate 95 for 30 minutes. Within that time, if Mr. Trader sent and received a total of 15 messages on Kik, it is possible that all 15 messages, had a different IP address, a different remote port, or a different transactional chat log timestamp, indicating a different coverage area, a different location. Just as agents here did with Comcast, they could use the same means of identifying the registered providers for that coverage area, which in this case would be T-Mobile, Mr. Trader's wireless provider, and agents here would have a record of Mr. Trader's movements for 30 minutes. It is a simple conclusion that accessing the internet through a smartphone is a whole new breed of technology compared to desktop and laptop computer's.

In 14 out of 17 case's the government cites as precedent Desktop and laptop computer's were the devices used to access the internet. The other 3 case's were: U.S. v. D'Andrea, 497 F. Supp. 2d 114, 120 (D. Mass. 2007) Here the government fails to mention this case was vacated by U.S. v. D'Andrea, 648 F. 3d 1 (1st Cir. 2011) in which "The government did not dispute a subjective expectation of privacy in [redacted] their password protected online account, and that this expectation of privacy was, at least initially, reasonable". The other two case's the government cites: U.S. v. Carpenter, 819 F. 3d 880, 887 (6<sup>th</sup> Cir. 2016) Reversed and Remanded

by Carpenter v. U.S., 138 S.Ct. 2206 (2018)  
and U.S. v. Davis, 785 F.3d 488, 511 (11th Cir. 2015) (en banc)  
Abrogated by Carpenter v. U.S., 138 S.Ct. 2206 (2018)  
(DE 14: 5-8)

Likewise, All 8 cases the District court cited in Denying Mr. Traylor's Motion to Suppress, were cited by the government. (DE 15: 5-6) Two of them being Davis and Carpenter, The other's were:

U.S. v. Perrine, 518 F.3d 1196, 1204-05 (10th Cir. 2008)

(Defendant used home computer to access chat room)

U.S. v. Forrester, 512 F.3d 500 (8th Cir. 2008)

(Government received warrant to install a pen register / trap and trace device on home internet account, to monitor internet activity to and from defendant's home computer)

U.S. v. Christie, 624 F.3d 558, 573-74 (3rd Cir. 2010)

(Defendant used home computer to access illegal website)

U.S. v. Beckett, 369 F. App'x 52, 56 (11th Cir. 2010), unpublished

(Defendant used home computer to chat with minor's)

U.S. v. Weast, 811 F.3d 743, 748 (5th Cir. 2016)

(Defendant used file sharing software on his home computer)

U.S. v. Caira, 833 F.3d 803, 806-07 (7th Cir. 2016)

(Defendant used home and work computer's to e-mail undercover Agent)

See also: U.S. v. Bynum, 604 F.3d 161 (4th Cir. 2010),

U.S. v. Wheelock, 772 F.3d 825, 828 (8th Cir. 2014)

(Defendants both used computer's at home)

All cases cited involve home or work desktop or laptop computer's. No case cited has dealt with a history of IP addresses from a cell phone user. That means all user's above were each in a fixed location while accessing the internet, and could not take their internet connection with them as they moved. A cell phone user can, and Mr. Trader did. The defendant has not found one case that addresses this issue, and to his knowledge, neither has the government. Even if there is a case out there somewhere, there is none post Carpenter. This is an issue of first impression.

Finally, if the District Court and the government are correct, and this court finds Smith and Miller control this case simply because Mr. Trader's location information is in the form of an IP address instead of CSLI, then this court will have placed historical IP addresses on the unprotected side of the barricade the Supreme Court has just erected separating "basic" and "distinct" subscriber information, with CSLI falling squarely on the other, protected side. Since these two forms of digital data are only distinguished materially, the 11th Circuit would essentially be giving the government a guide on how to circumvent the Supreme Court's ~~decision~~ in Carpenter using the steps agents took in this case to obtain essentially the same information. But, not to worry, I'm sure the

Government is not aware that Social media apps like Facebook have over 1 billion user's, and its app has over 1 billion downloads to their devices.

e) The Stored Communications Act is not Applicable or Relevant because the Emergency Disclosure Request's Sent to KIK and comcast were, on their face, Reckless and a total Disregard for the truth.

Because Mr. Trager had a reasonable expectation of Privacy in his physical movements, The S.C.A would not apply. "Our historical expectations of privacy do not change or somehow weaken simply because we now happen to use modern technology to engage in activities in which we have historically maintained protected privacy interests". Davis, 785 F.3d at 524-25 (11th Cir. 2015)(Rosenbaum, J., concurring) "Whether the government employs its own surveillance technology as in Jones or leverages the technology of a wireless carrier, we hold that an individual maintains a legitimate expectation of privacy in the record of his physical movements... An order issued under Section 2703(d) of the act is not a permissible mechanism for accessing historical cell site records. Before compelling a wireless carrier to turn over a subscriber's CSLI, the government's obligation is a familiar one - GET A WARRANT". Carpenter v. US, 138 S.Ct. [REDACTED] at 2221

Any Reliance on the S.C.A. by the government is Misplaced. Under the S.C.A., absent exigent circumstances, the appropriate Statute to obtain the type of information

Obtained here is 18 U.S.C. 2703. Under 2703, the government only has to meet the low Standard requirements for a court ordered Subpoena, which "Shall issue only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the ... records or other information sought, are relevant and material to an ongoing criminal investigation". Mr. Trader contends the government could not meet this Standard. ③

Instead, when the government obtained Mr. Trader's location Information, it did so pursuant to 18 U.S.C. 2702 (c)(4), the Exigent Circumstances exception carved into the S.C.A., which "Authorizes companies storing electronic communications to disclose such information to a governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of information relating to the emergency".

U.S. v. Beckett, 369 F. App'x 52, 56 (11th Cir. 2010) at 55,  
Citing: 18 U.S.C. 2702 (c)(4).

Mr. Trader admits, in making its request to both Kit and Comcast, the government represented that a serious emergency had taken place, was on going, and likely going to happen again in the future. Mr. Trader further admits that Kit and Comcast, based on the representation made by the government, likely

in good faith believed that an emergency was present when they each released Mr. Trader's information to the government. Based on this, Mr. Trader once again admits that KIK and Comcast both likely complied with the S.C.A., to [REDACTED] the extent that they had to, and should have. Mr. Trader's argument is not with the provider's release of his information, Mr. Trader's argument is with the government's request to the provider's.

The District Court below found that "The government and KIK complied with the [REDACTED] E.C.P.A., and even if they did did not, Suppression is not an appropriate Remedy" for [REDACTED] constitutional violations of the S.C.A. (DE 15:8-9).

The district court never decided or even [REDACTED] discussed if exigent circumstances ever existed when the [REDACTED] government sent their requests for disclosure to KIK and Comcast. This is important because the government was able to obtain constitutionally protected information without a judicial order, an administrative subpoena, or a showing of probable cause. As a result, the Agents in this case <sup>were</sup> not relying on the ruling of a neutral and detached Magistrate when attempting to, and ultimately obtaining, Mr. Trader's information.

[REDACTED]  
[REDACTED]  
[REDACTED]

Therefore, the government's actions were a violation of Mr. Trader's Fourth Amendment rights, because the warrantless Seizure and Search of his historical IP Addresses violated his right to privacy in the whole of his physical movements. Reliance on the S.C.A. by the government is misplaced because Mr. Trader suffered a Constitutional Violation, and therefore, the remedies described in the [REDACTED] Act do not apply in this case.

And in Any Event, Any Attempt to Justify the Search Using the S.C.A. is Without Merit because the government violated the Act itself. The only option for the government to legally obtain Mr. Trader's information using the S.C.A. is through a neutral and detached Magistrate. The government in the Alternative, Claimed to have an Emergency or two different requests, that did not Exist. "The government bears the [REDACTED] burden of proving that the exception applies and must establish both an exigency and probable [REDACTED] cause". U.S. v. Davis, 313 F.3d 1300 (11th Cir. 2002)

Mr. Trader asks this court to examine the facts known to the government at the time [REDACTED] it sent Requests for disclosure to the providers, which in this case consists [REDACTED] only of one Single Chat Conversation (DE Chat with minor), And then examine the "facts" as represented by the government in those Requests. (DE KIK Request, Comcast Request)

Admittedly, the extent of the evidence the government had before filing out their Emergency Disclosure Requests for Mr. Trader's Location Information is powerful evidence that a crime had been committed. Mr. Trader does not deny the evidence showing an adult asking a child for sexual photographs and receiving them, is powerful. Nor does he deny the powerful evidence of possessing and distributing child pornography. However, while this evidence makes a powerful showing that crimes had been committed, they are all crimes that the government, by Statute, are held to the standards congress set forth in 18 U.S.C 2703. None of the crimes mentioned above, with the facts known to the government, qualify as an Exigent Circumstance.

It is then no wonder that the government decided not to cite any of these crimes as an Exigent Circumstance to either KIK or Comcast. In the requests to both provider's, the government represented different, much more serious crimes had been committed by Mr. Trader, were then on-going, and going to happen again in the future, unless the provider's release Mr. Trader's records to law enforcement. The emergency the government claimed to have, was the Rape and molestation of Mr. Trader's daughter, by Mr. Trader himself. This Emergency never existed. Because of how the illegal activity was committed, the type of illegal activity that occurred, and the complete chat conversation created, the government had a 100% accurate record of the crime, leaving no need

for circumstantial guesses. The crimes alleged by the government not only did not happen, but agents knew or should have known, did not happen.

Considering this, there is no logical explanation to how the government, in good faith, reasonably believed there was an emergency involving danger of death or serious physical injury, without any shred of indicia to what the government claimed to be investigating in their requests to the providers.

Even assuming arguendo, that powerful evidence of Child Abuse was received by the government, the record does not indicate in any manner, that the abuse was then ongoing or that further abuse was imminent. For Example: Lets pretend for a moment that the government had identification of a suspect, knowledge that Suspect does have children, and verification that Suspect, and his children, were the subjects depicted in the photographs distributed in the chat (All of which the government did not have), "Scott" never once claimed in the chat to be actively abusing his children, nor did he give any indication that he intends to abuse them in the future, and he certainly does not indicate in any way, the intent to Molest or Rape anyone. The man suspected as "Scott" was never photographed engaging in any illegal activity with minor's, and "Scott" never claimed to have taken any photograph's himself, whether

Prior to, or during, the conversation.

The entire record of the initial crime is one chat conversation. It can be proven through this conversation that "Scott" never indicated, not even a bit, to any allegations set forth by the government in its requests. There existed no threat involving danger of death or serious physical injury to support a claim of exigency from the government, at least not in good faith.

In a similar, although arguably more serious situation, the 1<sup>st</sup> Circuit declined to find that exigent circumstances existed. In U.S. v. D'Andrea, 648 F. 3d 1 (1<sup>st</sup> Cir. 2011) the Massachusetts Department of Children and Families (then called DSS) received a detailed report from a tipster who informed DSS that she resided in California and had a child with defendant Willie Jordan. The tipster identified defendants Jordan and Kendra D'Andrea by name, and as partners, provided D'Andrea's residential address, and identified Jordan's employer by name. The tipster informed DSS that she had received a message on her mobile phone containing photographs of D'Andrea and Jordan performing sexual acts and D'Andrea's eight-year-old daughter, who the tipster was able to identify by name, and of photographs of the daughter with her genitalia exposed. D'Andrea had intended to send the message to Jordan, but sent it to the tipster by mistake. The tipster said

the pictures could be accessed by going to Sprint.com and entering a phone number and pass codes, which she provided to the DSS agent.

The DSS agent reported it to the local police department as a case of child abuse. After several (un-)successful attempts at accessing the website, and at least one other phone conversation with the tipster, DSS agents were able to access the website, where they found numerous pornographic pictures of the victim, consistent with the tipster's report. A DSS agent printed out more than 30 of the photographs and took them to the police department. After viewing the photographs, a [REDACTED] detective with the police department applied for a warrant to search D'Andrea's residence for evidence of child abuse and child pornography. The warrant affidavit stated the tipster told DSS the abuse was occurring at [REDACTED] D'Andrea's residence, the same address of which the tipster provided, and a motor vehicles drivers license check, confirmed. The warrant was signed at midnight, and the search commenced 10 minutes later. The officer's found D'Andrea and her two children, one of whom was the victim at the residence. D'Andrea was taken into custody and Jordan Shertly thereafter.

After being indicted, the defendants moved to suppress all evidence on grounds that the search of the Sprint.com account violated their fourth amendment rights and all evidence

Obtained as a result is "fruit" of an illegal search. The District Court denied the Motion to Suppress without holding an evidentiary hearing, citing among other things, that "Internet user's have no reasonable expectation of privacy". The defendants then entered into conditional plea's of guilty, reserving their right to appeal the denial of their Motion to Suppress.

On Appeal, the 1<sup>st</sup> Cir vacated and remanded, holding that an evidentiary hearing was required to determine whether exceptions to the warrant requirement applied to the DSS agents accessing of the Sprint website containing child pornography.

The defendants first claim of error targets the district courts denial of the motion to suppress without holding ~~an~~<sup>an</sup> evidentiary hearing, but the focus of the defendants appeal is the DSS agent accessing the Sprint Website account without a warrant.

The reasoning the district court gave in denying defendants Motion to Suppress was the Private Search doctrine. The 1<sup>st</sup> Circuit however, held that the Private Search doctrine did not apply based on the record of the case. In the event the District court decided the Private Search Doctrine did not apply, the government offered that exigent circumstances existed as a secondary reason to uphold the search. In a footnote, the District Court addressed

This issue:

"The government's 'emergency intervention' argument, based on *Briugman City, Utah v. Stuart*, — U.S. —, 126 S.Ct. 1943, 164 L.Ed. 2d 650 (2006) among other cases, provides a sufficient alternative basis which to uphold the search of D'Andrea's apartment... DSS had received ~~powerful evidence~~<sup>ce</sup> that a young child was being sexually abused and that the images of that abuse were being disseminated on the internet. It would have been a dereliction of duty for it to fail to act. While not directly relevant to the facts of this case, the ECPA contains an emergency provision permitting an ISP provider to disclose account information to a governmental entity 'if the provider, in good faith believes that an emergency involving danger of death or serious physical injury to any person requires disclosure...'. 18 U.S.C. 2702 (c)(4)". — U.S. v. D'Andrea, 487 F. Supp. 2d 117 (D.Mass., 2007) at 6 n. 18.

In detail, the 1st Cir explains its reasoning why Exigent Circumstances did not apply, based on the record of the case. *D'Andrea*, 648 F.3d 1 at 11-13. The court found that "powerful Evidence" of child abuse was received by DSS, but ~~that~~ the record does not indicate that abuse was then on-going or that further abuse was imminent. Nor does it explain how the tipster — who told DSS she resided in California and never claimed

to have been present at the time of the abuse or to have known about it when it was going on, could have known whether further abuse was imminent at the time she called DSS". This is important because an objectively reasonable belief in the imminence of harm is a requirement for the emergency intervention exception. See: Brigham City, 547 U.S. at 403, 126 S.Ct. 1943 (referring to "Imminent Injury"). - D'Andrea, 648 F.3d 1 at 11.

The sum of that case was that the district court's reliance as an alternative, on Exigent Circumstances was not supportable on the state of the record, and an evidentiary hearing was needed to determine whether the authorities had an objectively reasonable belief in the imminence of harm.

The first circuit's reasoning in D'Andrea, A very similar case directly bears on the merits of Mr. Trader's argument now. The information possessed by Homeland Security Agents in this case is substantially less reliable, and less in quantity than in D'Andrea, with a more complete record of events leading up to the search.

Here, there was no tipster. No one with knowledge of who Mr. Trader was, who Mr. Trader's children were, nobody who could could identify them, or knew if any of them exist outside the Social Media application. There was no one with information

On where Mr. Trader lived, worked, what Mr. Trader's home looked like, or where any alleged child abuse was occurring.

Moreover, there was never anyone actually alleging Mr. Trader committed any form of physical child abuse. The government had nothing more than a hunch, generated from 3 statements "Scott" made during the chat in [redacted] reference to 3 images and a video. The depictions revealed no identities, and no reliability (much less certainty) that the individuals in the photographs were actually who "Scott" indicated them to be when he said "my youngest daughter", "my oldest daughter", "me and my daughter".

All of these were present in D'Andrea, and the court still could not find exigency existed to justify the warrantless digital data search, because just as in Mr. Trader's case, even with "powerful evidence of child abuse" the record did not "indicate that abuse was then on-going or that further abuse was imminent". nor did it explain how someone living in a different state "and never claimed to have been present at the time of the abuse or [redacted]" to have known about it when it was going on - could have known whether further abuse was imminent". D'Andrea at 12.

f) The good faith exception to the exclusionary rule does not apply in this case.

As the Supreme court has explained, the purpose of the exclusionary rule is not to remedy a private wrong, but rather as a practical means of deterring future unlawful behavior by law enforcement. U.S. v. Calandra, 414 U.S. 338, 347, 94 S.Ct. 613, 38 L.Ed.2d 561 (1974). Thus, "The deterrent purpose of the exclusionary rule necessarily assumes that police have engaged in willful, or at the very least, negligent, conduct" to deprive a defendant of a guaranteed right. U.S. v. Peltier, 422 U.S. 531, 539, 95 S.Ct. 2313, 45 L.Ed.2d 374 (1975) (internal quotation marks omitted). As a result, the court has held that the deterrent effect of exclusion of evidence is minimal where an officer has acted on an objectively reasonable belief that his actions did not violate the Fourth Amendment. U.S. v. Leon, 468 U.S. 897, 922, 104 S.Ct. 3405, 82 L.Ed.2d 677 (1984). In Leon, the Court concluded that the exclusionary rule should not be applied to prevent the use in a criminal prosecution of evidence obtained by officers whose reliance on a warrant issued by a magistrate was objectively reasonable, even though it was later determined that probable cause for the issuance of the warrant was lacking. "Penalizing the officer for [redacted] the [redacted] magistrate's error, rather than his own, cannot logically contribute to the deterrence of Fourth Amendment violations".

Id. at 921. So, to trigger the exclusionary rule, "Police conduct must be sufficiently deliberate that exclusion can meaningfuly [redacted] deter it, and sufficiently culpable that such deterrence is worth the price paid by the Justice System." *Herring v. U.S.*, 555 U.S. 135, 144, 129 S.Ct. 695, 172 L.Ed.2d 496 (2009)

In *Leon*, the court applied the good faith exception because the officers acted in objectively reasonable reliance on a warrant issued by a magistrate. However, the good faith exception is not restricted to situations in which police officers rely upon a warrant later found to be invalid. For example, the Supreme Court has also held that the exclusionary rule should not be applied to suppress evidence obtained by officers who acted in objectively reasonable reliance on a Statute that authorized warrantless administrative searches, even though the Statute was later found to violate the Fourth Amendment. *Illinois v. Krull*, 480 U.S. 340, 107 S.Ct. 1160, 94 L.Ed. 2d 364 (1987). In *Krull*, the court explained that in light of the deterrent purpose of the exclusionary rule, "Evidence should be suppressed only if it can be said that the law enforcement officer had knowledge, or may properly be charged with knowledge, that the search was unconstitutional under the Fourth Amendment." *Krull*, 480 U.S. at 348-49 (internal quotation marks and citations omitted). See also: *Davis v. U.S.*, 564 U.S. 229, 236-37, 131 S.Ct. 2419, 180 L.Ed. 2d 285 (2011).

Likewise, the "ultimate measure of the constitutionality of a governmental search is reasonableness". The court has established that warrantless searches are typically unreasonable where "A search is undertaken by law enforcement officials to discover evidence of criminal wrongdoing". Vernonia School Dist. 47 J v. Acton, 515 U.S. 646, 652 - 653, 115 S.Ct. 2386, 132 L.Ed. 2d 564 (1995). Thus, "In the absence of a warrant, a search is reasonable only if it falls within a specific exception to the warrant requirement". Riley, 573 U.S. at —, 134 S.Ct. 2473, 189 L.Ed. 2d 430, 439. "One well-recognized exception applies when the exigencies of the situation make the needs of law enforcement so compelling that a warrantless search is objectively reasonable under the Fourth Amendment. Such exigencies include the need to pursue a fleeing suspect, protect individuals who are threatened with imminent harm, or prevent the imminent destruction of evidence". Carpenter, 138 S.Ct. at 2223. (Internal quotations and citations omitted) In the context of location information under 18 U.S.C. 2702 (c)(4) of the S.C.A. Specifically, "The Fourth Amendment issue turns on whether the circumstances known to law enforcement and presented to [the provider] were within the category of 'exigent circumstances' that permit warrantless searches. The core question is whether the facts would lead a reasonable, experienced officer, to believe that there was an urgent need to take action". U.S. v. Gilliam, 842 F. 3d 801 (2nd Cir. 2016) at 2-3. (Internal citations and

quotation marks omitted) "The government bears the burden of proving that the exception applies and must establish both an exigency and probable cause. In Emergencies, probable cause exists where law enforcement officials 'reasonably believe' that someone is in danger".

U.S. v. Davis, 313 F. 3d 1300 (11th Cir 2002) (internal citations omitted)

In Mr. Trader's case, Law enforcement obtained his location information pursuant to the Stored Communications Act (SCA), 18 U.S.C. 2701 et seq. Although 18 U.S.C. 2703 provides as an option that law enforcement obtain a warrant before acquiring such information from service providers, the Statute does not require law enforcement to do so. Because of this, if the court holds that the government conducted a search under the meaning of the Fourth Amendment, and further holds a warrant is generally required before obtaining such information, the good faith exception would apply, so long as law enforcement complied with the Statute without any assumed knowledge of willful, wrongful, or negligent conduct. In other words, bad faith.

The almost standard way to obtain this information prior to the Supreme Courts decision in Carpenter, was through use of a Subpoena, issued by a magistrate under 18 U.S.C. 2703. The government in Mr. Trader's case however, sent an emergency disclosure request by law enforcement, pursuant to 18 U.S.C. 2702 (c)(4),

To the communications provider's Kit and Comcast, claiming to have an emergency involving danger of death or serious physical injury, compelling them to voluntarily disclose his information. In doing so, Law enforcement in a Search Affidavit, Swear that Mr. Trader had been physically sexually molesting and Raping his daughter the night before, that the sexual assault was still on going, and will continue to happen in the future unless the disclosure is made.

However, no such emergency ever existed. The Criminal activity that had taken place never gave rise to anything more than a hunch on the part of the government that such activity [REDACTED]

[REDACTED]  
had happened, and certainly no reason to think such activity was taking place at the time of the requests, or will take place in the future.

On this issue, the record is clear. No one ever alleged Mr. Trader committed any form of physical child abuse. Mr. Trader never said it, no victim ever disclosed it, no tipster ever reported it, no witness ever witnessed it. There were no images or videos depicting Mr. Trader or the man known as "Scott" committing abuse. Moreover, there was not one person who knew who Mr. Trader was, who his children were, where they all lived, [REDACTED] or if any of them even exist outside of the Social Media application.

"Of course, the burden of proving an exception to the warrant requirement lies with the government. *U.S. v. Jeffers*, 342 U.S. 48, 51, 72 S.Ct. 93, 95, 96 L.Ed. 59 (1951). "In validating a warrantless search based on the exigent circumstances exception, the government must demonstrate both exigency and probable cause". *U.S. v. Holloway*, 290 F.3d 1331 (11th Cir. 2002) at 1337

"In the typical case, probable cause exists where the circumstances would lead a reasonable person to believe a search will disclose evidence of a crime". *U.S. v. Borgos*, 720 F.2d 1520, 1525 (11th Cir. 1983) In emergencies however, law enforcement officers are not motivated by an expectation of seizing evidence of a crime. Rather, the officers are compelled to search by a desire to locate victims and the need to ensure their own safety and that of the public". *Holloway*, 290 F.3d at 1337-38

There was absolutely no probable cause to believe that THOSE crimes had been committed, were currently being committed, or going to be committed. "Exigent circumstances is an exception to the warrant, not the probable cause requirement." *D'Andrea*, 648 F.3d 1 at 13  
See: *Briegham City*, 549 U.S. at 403, 126 S.Ct 1943

No reasonable, well trained law enforcement officer, would be able to conclude, based on this record, that either

Probable cause, Exigency, or both ever existed. The government misled the providers into disclosing Mr. Trader's information. That sort of reckless disregard for the truth, is why the Exclusionary rule was put in place, to be used as a deterrent against the conduct seen in this case.

Because the government ran afoul of the Statutory Law created by the S.C.A., The government can not rely on it to save the warrantless search of Mr. Trader's information. The Good Faith Exception does not apply in this case.

G) If this court holds that the government violated Mr. Trader's Fourth Amendment rights when it obtained his historical IP addresses without a warrant, All Fruits of the unlawful Search Should be Suppressed.

All Evidence Seized during an unlawful Search can not constitute Proof against the Victim of the Search. Wong Sun v. U.S., 391 U.S. 471, 484 (1963) The government obtained Mr. Trader's Home IP Address through the use of an Emergency Disclosure Request to KTB. If this court holds that to be an unlawful Search, any Evidence obtained as a direct result of the unconstitutional Search was therefore inadmissible under the "Fruits of the poisonous tree" Doctrine. See id. at 484 - 85. This includes, but is not limited to, the emergency disclosure requests sent to Comcast and Say Hi, and the later Search of Mr. Trader's Residence. These Searches are Rooted in the government's discovery of Mr. Trader's identity and home address. Any issue regarding these Searches Should be remanded to the district court with instructions that an evidentiary hearing be held. Mr. Trader Should be allowed to withdraw his plea of guilty and remanded back to the district court for further proceedings.

## Footnotes:

- ① Device specific information is and of itself could arguably have been a physical search of Mr. Trader's cell phone. "Courts agree that individuals do have a reasonable expectation of privacy in the contents of their computers. See e.g., U.S. v. Turner, 839 F.3d 429, 434 (5th Cir. 2016) (citing Riley v. California, — U.S. —, 134 S.Ct. 2473, 2485, 189 L.Ed. 2d 430 (2014) (noting the recognized privacy interest in the electronic contents of computers and cell phones))" U.S. v. Taylor, 250 F. Supp. 3d 1215 (N.D. Ala. 2017) at § 1225
- ② The government never did indicate a reason for executing the search of Mr. Trader's home on the day or time executed. However, they did indicate multiple times that Mr. Trader accessed KIK from the IP address connected through wifi, for all 30 days of records starting May 1<sup>st</sup> 2017 through May 31<sup>st</sup> 2017. (DE 14:12-14) (DE [REDACTED] 14-1:9) The District Court indicated this as well (DE 15:2, 11-12)
- ③ If more traditional means had been taken, the government also would have had to meet the standards set forth in the current "Mutual Legal Assistance Treaty" (MLAT) the U.S. has with Canadian Law Enforcement agencies, since despite what the government has misled judicial officials to believe, (DE 14-1:9) (DE 14:3) (DE 15:2), KIK just as Say Hi, is "Headquartered outside

of the United States". The difference between the two companies, and the reason the government sent its request to KIK, instead of Say Hi, was they knew the Data KIK was collecting, and they knew how they could ~~not~~ obtain it, (DE KIK Quick to Law Enforcement) while circumventing the process to request it.

(4) It should be noted and taken into consideration that on May 31<sup>st</sup> 2017, within hours of the governments requests for Disclosure being Sworn to, the Affidavit Supporting the Search of Mr. Trader's Residence was also Sworn to. (DE 14-1 : 1-17). In that affidavit, there is no mention of Any Emergency Involving danger of death or serious physical injury, molestation, Rape, or Sexual abuse of any kind by Mr. Trader. The entire scope of the application was to Search Mr. Trader's Residence, not for Evidence of physical, or sexual abuse, Not to save a victim from danger, but to locate and Recover Evidence of Child Pornography.

(5) In doing so, Law Enforcement agreed prior to the disclosure, that they would provide a formal order of information pursuant to 18 U.S.C. 2703, within 92 hours of the disclosure of Mr. Trader's Information. The government agent also "declare[d] under penalty of perjury under the laws of the United States of America that the foregoing is true and correct". The government never disclosed this ~~order~~ order to the defendant, if Law Enforcement did it does

receive a formal order.

⑥ An experienced government agent, such as Agent Brant in this case, who has had experience in many child pornography and child sex crime cases, should have noticed while examining the alleged depections of sexual abuse by Mr. Trader, that : All four depections sent to the minor by "Scott" are widely circulated on the internet, and are known victims of child pornography by the NCMEC.

At least one image contained a website watermark (franksporn.com) on the bottom corner of the picture, and the 37 second video had been edited and the sound was removed, which therefore could not have been taken ██████████ live at the time of the chat. At the very least, an experienced agent would have checked the time and date stamp within the coding of the images, using software that is easily accessible to law enforcement before violating an Americans 4th Amendment rights, for a crime that is without evidence.

**U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT**

**CERTIFICATE OF SERVICE**

United States vs. Scott J. Trader Appeal No. 17-15611-BB

FRAP 25(b) through (d) (see reverse) requires that at or before the time of filing a paper, a party must serve a copy on the other parties to the appeal or review. In addition, the person who made service must certify that the other parties have been served, indicating the date and manner of service, the names of the persons served, and their addresses.

**You may use this form to fulfill this requirement. Please type or print legibly.**

I hereby certify that on (date) October 18, 2018,

a true and correct copy of the foregoing (title of filing) Temporary Supplement Motion,

with first class postage prepaid, has been (check one)

deposited in the U.S. Mail

deposited in the prison's  
internal mailing system

and properly addressed to the persons whose names and addresses are listed below:

Eleventh Circuit Court of Appeals

56 Forsyth Street, N.W.,

Atlanta, Georgia, 30303.

Scott Trader  
Your Name (please print)

Scott Trader  
Your Signature

*Please complete and attach this form to the original document and to any copies you are filing with the court, and to all copies you are serving on other parties to the appeal.*

Exhibit R

Final Judgment on petition for Termination of  
Parental Rights

Dated 11/09/2017

7 pages

Filing # 64010450 E-Filed 11/09/2017 03:14:17 PM

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
IN AND FOR ST LUCIE COUNTY, FLORIDA  
JUVENILE DIVISION

IN THE INTEREST OF:

CASE NO: 562017DP000041

RABEKA LUELLA TRADER DOB: 12/27/2012

*Minor Child*

/

FINAL JUDGMENT ON PETITION FOR  
TERMINATION OF PARENTAL RIGHTS

THIS CASE came before the court on October 13, 2017, for a Manifest Best Interest hearing on the termination of parental rights (“TPR”) petition filed by the Department of Children and Families (“The Department”). The TPR petition was filed on July 14, 2017. The child was adjudicated dependent on May 17, 2017.

The following parties, participants, and their attorneys were present:

Aurora I. Medina, Esq.,	Attorney for Department
Quita Griffith	Dependency Case Manager
Eva Sugg, Esq.,	Attorney for the Guardian Ad Litem
Ellen Shafer,	Guardian Ad Litem
Katrina Varner	Mother

All parties had prior notice of the hearing.

The child that is the subject of this case is Rabeka Luella Trader whose date of birth is reflected above.

The mother of the child is Katrina Anay Varner. The mother was advised of the right to counsel and has been represented by Chet Weinbaum, Esq. The mother’s attorney was not present for the manifest best interest hearing.

The father of the child is Scott Joseph Trader. The father was advised of the right to counsel and was represented by Christopher A. Hicks, Esq. The father waived his appearance and his attorney's appearance for this manifest best interest hearing.

A Guardian ad Litem has been appointed to represent the best interest of the child.

The Court had the opportunity to listen to, observe, and weigh the evidence. The Court finds the following facts proven by clear and convincing evidence, and orders as follows.

The father, Scott Joseph Trader appeared in Court on September 28, 2017 and executed a written surrender of his parental rights to the child, Rabeka Luella Trader; pursuant to section 39.806(1)(a), Florida Statutes.

The Department is seeking to sever the parental rights of the father without severing the parental rights of the mother pursuant to section 39.811(6)(d), Florida Statutes. The parties stipulated on September 28, 2017, to the termination of the father's parental rights pursuant to section 39.811(6)(d), Florida Statutes.

Florida Statute section 39.810(1)-(11) details the factors the Court must consider in determining the manifest best interest of the child. The factors, and the findings for each factor are as follows.

(1) Any suitable permanent custody arrangement with a relative of the child. However, the availability of a nonadoptive placement with a relative may not receive greater consideration than any other factor weighing on the manifest best interest of the child and may not be considered as a factor weighing against termination of parental rights. If a child has been in a stable or preadoptive placement for not less than 6 months, the availability of a different placement, including a placement with a relative, may not be considered as a ground to deny the termination of parental rights.

The child, Rabeka has not been removed from her mother's custody.

(2) The ability and disposition of the parent or parents to provide the child with food, clothing, medical care or other remedial care recognized and permitted under state law instead of medical care, and other material needs of the child.

The father, Scott Trader, does not have the ability to provide Rabeka with food, clothing or financial support as he is currently incarcerated pending prosecution in State and Federal courts for sex crimes.

(3) The capacity of the parent or parents to care for the child to the extent that the child's safety, well-being, and physical, mental, and emotional health will not be endangered upon the child's return home.

The child remains with her mother.

Based on Samantha Trader's (Rabeka's sister) testimony at the dependency trial, this Court's findings after the trial and the pending criminal charges against Scott Trader; Rabeka's physical, mental and emotional health would be endangered if ever placed in Scott Trader's custody.

(4) The present mental and physical health needs of the child and such future needs of the child to the extent that such future needs can be ascertained based on the present condition of the child.

Rabeka has been diagnosed with PTSD. She is receiving therapy to address the PTSD and sexual abuse. Rabeka's mother is assuring that all of Rabeka's emotional and physical needs are being met.

(5) The love, affection, and other emotional ties existing between the child and the child's parent or parents, siblings, and other relatives, and the degree of harm to the child that would arise from the termination of parental rights and duties.

The child did have a bond with her father, however, any past bond with the father was destroyed by the sexual abuse perpetuated

against Rabeka by her father. Further contact with the father (due to the sexual abuse) would be more detrimental to Rabeka than any emotional detriment that could arise from the termination of the father's parental rights.

Rabeka will continue to visit her half-sister, Samantha, therefore, there would not be any detriment from the termination of the father's parental rights as it pertains to the sibling relationship.

(6) The likelihood of an older child remaining in long-term foster care upon termination of parental rights, due to emotional or behavioral problems or any special needs of the child.

Not applicable as the child resides with her mother.

(7) The child's ability to form a significant relationship with a parental substitute and the likelihood that the child will enter into a more stable and permanent family relationship as a result of permanent termination of parental rights and duties.

Not applicable as the child has not been removed from her mother's custody.

(8) The length of time that the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.

Not applicable as the child has not been removed from her mother's custody.

(9) The depth of the relationship existing between the child and the present custodian.

Not applicable as the child has not been removed from her mother's custody.

(10) The reasonable preferences and wishes of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

Rabeka is too young and not of sufficient intelligence to express a preference.

(11) The recommendations for the child provided by the children's guardian ad litem or legal representative.

Both the dependency case manager and the Guardian Ad Litem recommend that Scott Trader's parental rights be terminated.

Conclusion

The Court finds by clear and convincing evidence that:

The grounds for the termination of Scott Joseph Trader's parental rights have been proven as noted.

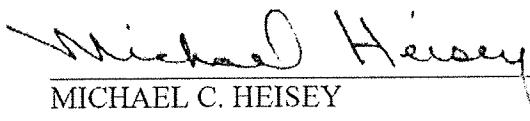
It is in the manifest best interest of Rabeka Luella Trader that the parental rights of the father, Scott Joseph Trader, be terminated.

Termination of the father's parental rights is the least restrictive means of protecting the child from serious harm. Due to the serious allegations of sexual abuse, termination of the father's parental rights is the only means to protect Rabeka from serious harm.

Based on all evidence presented, it is hereby ordered as follows:

1. The petition is granted.
2. The parental rights of the father, Scott Joseph Trader as to Rabeka Luella Trader are hereby terminated under section 39.806(1)(a), Florida Statutes.
3. The evidence supports a single parent termination of parental rights pursuant to sections, 39.811(6)(d) and (e), Florida Statutes.
4. The child, Rabeka Luella Trader, is to remain in her mother's custody.
5. Pursuant to Fla. R. Jud. Admin. 2.505(f)(3), counsel for the parents will automatically be discharged following the expiration of the time for appeal, if no appeal is taken.

DONE and ORDERED in Ft. Pierce, Florida on this 9<sup>th</sup> day of November, 2017.

  
MICHAEL C. HEISEY  
Circuit Judge

## NOTICE

Under Florida Statute Section 39.815, any child, any parent, guardian ad litem, or legal custodian of any child, any other party to the proceeding who is affected by this order of the court, or the department may appeal to the appropriate District Court of Appeal within thirty (30) days from the date this order is rendered (filed) and in the manner prescribed by the Florida Rules of Appellate Procedure.

You have the right to the effective assistance of appointed counsel in this termination of parental rights proceeding. Your attorney must provide reasonable, professional assistance. You have the right to file a written motion with the court alleging that counsel's performance was ineffective. In any such written motion you must identify specific errors of commission or omission that under the totality of circumstances evidence deficiencies in the exercise of reasonable, professional judgment in the case. You must also establish that cumulatively the deficient representation so prejudiced the outcome of the trial that but for the deficient representation your parental rights would not have been terminated.

If you decide to file a written motion you must do so within 20 days of the date of this order. A motion must be filed by you and not an appointed attorney on your behalf. Copies of a motion must be sent to all parties. A motion must contain the case name and case number and indicate the date this order was issued by the court. A motion must identify specific acts or omissions in representation that constitute a failure to provide reasonable, professional assistance. You must explain how errors or omissions prejudiced your case to the extent that the result would have been different without appointed counsel's deficient performance.

\*(See JB v DCF, 2015 WL 4112321 (Fla. July 9, 2015)

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Corrie Johnson, ADA Coordinator, 250 NW Country Club Drive, Suite 217, Port St. Lucie, FL 34986, (772) 807-4370 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

Copies furnished to :

Aurora I. Medina, Esq.  
Chet Weinbaum, Esq.  
James Phillips, Esq.  
Christopher A. Hicks, Esq.

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lawofficescew@bellsouth.net  
James.Phillips@gal.fl.gov  
hickslaw@comcast.net

Nov 09, 2017

*Dawn S. Ackerman*

Exhibit S

Final Judgment on Petition for Termination of  
Parental Rights

Dated 11/06/2017

6 Pages

Filing # 63780804 E-Filed 11/06/2017 09:07:08 AM

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
IN AND FOR SAINT LUCIE COUNTY, FLORIDA  
JUVENILE DIVISION

IN THE INTEREST OF:

CASE NO.: 562017DP000044

SAMANTHA LEANNE TRADER                    DOB: 02/27/2006  
Minor Child

/

FINAL JUDGMENT ON PETITION FOR  
TERMINATION OF PARENTAL RIGHTS

THIS CASE came before the court on October 13, 2017, for a Manifest Best Interest hearing on the termination of parental rights ("TPR") petition filed by the Department of Children and Families ("The Department"). The TPR petition was filed on July 14, 2017. The court withheld adjudication of dependency on April 17, 2017.

The following parties, participants, and their attorneys were present:

Aurora I. Medina, Esq.,	Attorney for Department
Quita Griffith	Dependency Case Manager
Eva Sugg, Esq.,	Attorney for the Guardian Ad Litem
Ellen Shafer,	Guardian Ad Litem
Crystal Marsh, Esq.	Attorney for the Mother
Leanne Drew	Mother

All parties had prior notice of the hearing.

The child that is the subject of this case is Samantha Leanne Trader whose date of birth is reflected above.

The mother of the child is Leanne Drew. The mother was advised of the right to counsel and has been represented by Crystal Marsh, Esq. The father of the child is Scott Joseph Trader. The father was advised of his right to counsel and has been represented by Christopher A.

Hicks, Esq. The father waived his appearance and his attorney's appearance for this manifest best interest hearing.

A Guardian ad Litem has been appointed to represent the best interest of the child.

The Court had the opportunity to listen to, observe, and weigh the evidence. The Court finds the following facts proven by clear and convincing evidence, and orders as follows.

The father, Scott Joseph Trader appeared in Court on September 28, 2017 and executed a written surrender of his parental rights to the child, Samantha Leanne Trader; pursuant to section 39.806(1)(a), Florida Statutes.

The Department is seeking to sever the parental rights of the father without severing the parental rights of the mother pursuant to section 39.811(6)(d), Florida Statutes. The parties stipulated on September 28, 2017, to the termination of the father's parental rights pursuant to section 39.811(6)(d), Florida Statutes.

Florida Statute section 39.810(1)-(11) details the factors the Court must consider in determining the manifest best interest of the child. The factors, and the findings for each factor are as follows.

(1) Any suitable permanent custody arrangement with a relative of the child. However, the availability of a nonadoptive placement with a relative may not receive greater consideration than any other factor weighing on the manifest best interest of the child and may not be considered as a factor weighing against termination of parental rights. If a child has been in a stable or preadoptive placement for not less than 6 months, the availability of a different placement, including a placement with a relative, may not be considered as a ground to deny the termination of parental rights.

The child, Samantha, has not been removed from her mother's custody.

(2) The ability and disposition of the parent or parents to provide the child with food, clothing, medical care or other remedial care recognized and permitted under state law instead of medical care, and other material needs of the child.

The father, Scott Trader, does not have the ability to provide Samantha with food, clothing or financial support as he is currently incarcerated pending prosecution in State and Federal courts for sex crimes.

(3) The capacity of the parent or parents to care for the child to the extent that the child's safety, well-being, and physical, mental, and emotional health will not be endangered upon the child's return home.

The child remains with her mother.

Based on Samantha's prior testimony at her sister's dependency trial, this Court's findings after the trial and the pending criminal charges against Scott Trader; Samantha's physical, mental and emotional health would be endangered if ever placed in Scott Trader's custody.

(4) The present mental and physical health needs of the child and such future needs of the child to the extent that such future needs can be ascertained based on the present condition of the child.

Samantha sees a therapist for anxiety and depression. Samantha is exhibiting symptoms of hearing loss. Samantha's mother is assuring that all of Samantha's emotional and physical needs are being met.

(5) The love, affection, and other emotional ties existing between the child and the child's parent or parents, siblings, and other relatives, and the degree of harm to the child that would arise from the termination of parental rights and duties.

The child did have a bond with her father, however, any past bond with the father was destroyed by the sexual abuse perpetuated

against Samantha by her father. Further contact with the father (due to the sexual abuse) would be more detrimental to Samantha than any emotional detriment that could arise from the termination of the father's parental rights.

Samantha will continue to visit her half-sister, Rabeka, therefore, there would not be any detriment from the termination of the father's parental rights as it pertains to the sibling relationship.

(6) The likelihood of an older child remaining in long-term foster care upon termination of parental rights, due to emotional or behavioral problems or any special needs of the child.

Not applicable as the child resides with her mother.

(7) The child's ability to form a significant relationship with a parental substitute and the likelihood that the child will enter into a more stable and permanent family relationship as a result of permanent termination of parental rights and duties.

Not applicable as the child has not been removed from her mother's custody.

(8) The length of time that the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.

Not applicable as the child has not been removed from her mother's custody.

(9) The depth of the relationship existing between the child and the present custodian.

Not applicable as the child has not been removed from her mother's custody.

(10) The reasonable preferences and wishes of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

Samantha is 11 years old. She is of sufficient intelligence to understand that her father's parental rights are being terminated. Samantha is in favor of her father's rights being terminated and wants to change her name.

(11) The recommendations for the child provided by the children's guardian ad litem or legal representative.

Both the dependency case manager and the Guardian Ad Litem recommend that Scott Trader's parental rights be terminated.

Conclusion

The Court finds by clear and convincing evidence that:

The grounds for the termination of Scott Joseph Trader's parental rights have been proven as noted.

It is in the manifest best interest of Samantha Leanne Trader that the parental rights of the father, Scott Joseph Trader, be terminated.

Termination of the father's parental rights is the least restrictive means of protecting the child from serious harm. Due to the serious allegations of sexual abuse, termination of the father's parental rights is the only means to protect Samantha from serious harm.

Based on all evidence presented, it is hereby ordered as follows:

1. The petition is granted.
2. The parental rights of the father, Scott Joseph Trader as to Samantha Leanne Trader are hereby terminated under section 39.806(1)(a), Florida Statutes.
3. The evidence supports a single parent termination of parental rights pursuant to sections, 39.811(6)(d) and (e), Florida Statutes.
4. The child, Samantha Leanne Trader, is to remain in her mother's custody.
5. Pursuant to Fla. R. Jud. Admin. 2.505(f)(3), counsel for the parents will automatically be discharged following the expiration of the time for appeal, if no appeal is taken.

DONE and ORDERED in Ft. Pierce, Florida on November 6, 2017.

  
MICHAEL C. HEISEY  
Circuit Judge

## NOTICE

Under Florida Statute Section 39.815, any child, any parent, guardian ad litem, or legal custodian of any child, any other party to the proceeding who is affected by this order of the court, or the department may appeal to the appropriate District Court of Appeal within thirty (30) days from the date this order is rendered (filed) and in the manner prescribed by the Florida Rules of Appellate Procedure.

You have the right to the effective assistance of appointed counsel in this termination of parental rights proceeding. Your attorney must provide reasonable, professional assistance. You have the right to file a written motion with the court alleging that counsel's performance was ineffective. In any such written motion, you must identify specific errors of commission or omission that under the totality of circumstances evidence deficiencies in the exercise of reasonable, professional judgment in the case. You must also establish that cumulatively the deficient representation so prejudiced the outcome of the trial that but for the deficient representation your parental rights would not have been terminated.

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\*(See JB v DCF, 2015 WL 4112321 (Fla. July 9, 2015)

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Copies furnished to :

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[James.Phillips@gal.fl.gov](mailto:James.Phillips@gal.fl.gov)

Christopher A. Hicks, Esq.

[hickslaw@comcast.net](mailto:hickslaw@comcast.net)

Nov 06, 2017

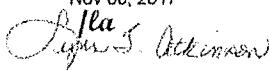
A handwritten signature in black ink that reads "Lynn S. Atkinson".

Exhibit T

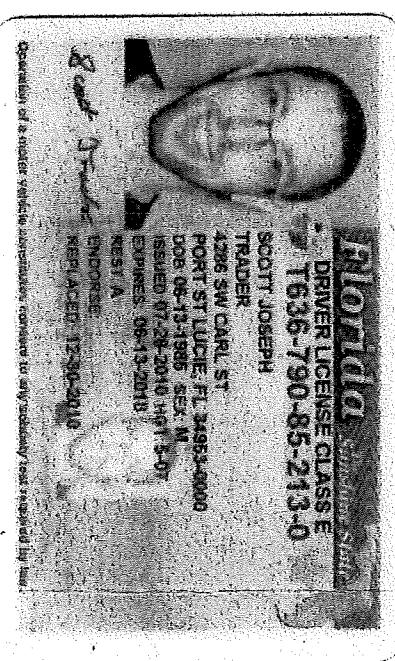
State of Florida Civil Docket Sheet

6 pages

Exhibit U

Trader's Drivers License

2 Pages



Operation of a motor vehicle or motorboat requires a valid driver's license issued by law.

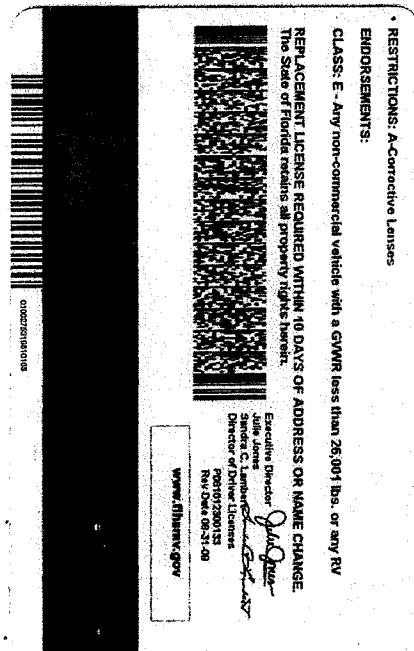


Exhibit V

Trader's Rap Sheet (Criminal History Record)

14 Pages

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## Document

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Page 1 of 14

**HDR/2L01069,MRI0924911 -- ATN  
/0892618865ICEDHSGOV -- \*\*\*\*\*  
CRIMINAL HISTORY RECORD \*\*\*\*\*  
-- Data As Of 2017-06-08**

## Properties

Description	HDR/2L01069,MRI0924911 -- ATN/0892618865ICEDHSGOV -- ***** CRIMINAL HISTORY RECORD ***** -- Data As Of 2017-06-08
Source Ori	FLIII0000

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**Related Media****Title**

writeup

**Time added**

12/31/1969 19:00

**Media type**

text/plain

HDR/2L01069, MRI0924911  
ATN/0892618865ICEDHSGOV

\*\*\*\*\* CRIMINAL HISTORY RECORD \*\*\*\*\*

Data As Of 2017-06-08

\*\*\*\*\* Introduction \*\*\*\*\*

This rap sheet was produced in response to the following request:

FBI Number 789592DC0  
State Id Number FL06025792 (FL)

)  
Purpose Code C

Attention 0892618865ICEDHSGOV

The information in this rap sheet is subject to the following caveats:  
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THIS RECORD CONTAINS FLORIDA INFORMATION ONLY. WHEN EXPLANATION OF A  
CHARGE OR DISPOSITION IS NEEDED, COMMUNICATE DIRECTLY WITH THE AGENCY  
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FOR CRIMINAL JUSTICE PURPOSES AS DEFINED BY THE CODE OF FEDERAL  
REGULATIONS. (FL)

THIS IS A MULTI-SOURCE OFFENDER RECORD. (FL)

\*\*\*\*\* IDENTIFICATION \*\*\*\*\*

Subject Name(s)

TRADER, SCOTT JOSEPH

TRADER, SCOTT J (AKA)

Subject Description

FBI Number State Id Number  
789592DC0 FL06025792 (FL)

)

Social Security Number

085722918

Sex Race

Male White

Height Weight Date of Birth

5'07" 150 1985-06-13

Hair Color Eye Color

Brown Brown

Scars, Marks, and Tattoos

---

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Code	Description, Comments, and Images
TAT BACK	,
SC CHIN	,
Place of Birth	
NEW YORK	
Employment	
Occupation	AGEIS
Employer	
Residence	
Residence as of	

1189 SW EDINBURGH DR, PT ST LUCIE, FL

\*\*\*\*\* CRIMINAL HISTORY \*\*\*\*\*  
===== Cycle 001 =====

Tracking Number 001  
Earliest Event Date 2004-02-19

-----  
Arrest Date 2004-02-19

Arrest Case Number 2004002360

Arresting Agency FL0560200

PORT ST. LUCIE POLICE DEPARTMENT

Arrest Type ADULT

Charge 001  
Charge Number 2004002360

Charge Tracking Number 5601065786

Charge Literal BATTERY-

Agency FL0560200

PORT ST. LUCIE POLICE DEPARTMENT

Charge Description TOUCH OR STRIKE DOM VIOL  
Statute TOUCH OR STRIKE (FL784.03 (1A1); FL

)

NCIC Offense Code 1319  
Counts 001  
Severity MISDEMEANOR  
Inchoate Charge PRINCIPAL  
Enhancing Factor 1ST DEGREE

-----  
Prosecutor Disposition (Cycle 001)

Prosecution Date 2004-02-19

Prosecutor Agency FL056015A STATE ATTORNEY'S OFFICE - FT. PIERCE

Charge 001  
Charge Number 001

Charge Tracking Number 5601065786

Charge Literal BATTERY-

Charge Description Suppl Arr Degree:1ST

Charge Description Suppl Arr Level:MISDEMEANOR

Charge Description BATTERY

Statute BATTERY (FL784.03; )

NCIC Offense Code 1319  
Counts 001  
Severity MISDEMEANOR  
Enhancing Factor 1ST DEGREE  
Disposition (Charges Dropped 2004-03-12; DROPPED/ABANDONED)

---

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)

===== Cycle 002 =====

Tracking Number 002  
 Earliest Event Date 2007-03-20

Arrest Date 2007-03-20  
 Arrest Case Number 550

Arresting Agency FL0560200  
 PORT ST. LUCIE POLICE DEPARTMENT

Arrest Type ADULT

Charge 001  
 Charge Number 550

Charge Tracking Number 5601111928  
 Charge Literal BATTERY-

Agency FL0560200

PORT ST. LUCIE POLICE DEPARTMENT

Charge Description TOUCH OR STRIKE DOM VIOL  
 Statute TOUCH OR STRIKE (FL784.03(1A1); FL

)

NCIC Offense Code 1319  
 Counts 001  
 Severity MISDEMEANOR  
 Inchoate Charge PRINCIPAL  
 Enhancing Factor 1ST DEGREE

Prosecutor Disposition (Cycle 002)

Prosecution Date 2007-03-20

Prosecutor Agency FL056013J ST. LUCIE COUNTY COURT

Charge 001

Charge Number 001  
 Charge Tracking Number 5601111928

Charge Literal BATTERY-

Charge Description Suppl Arr Degree:1ST

Charge Description Suppl Arr Level:MISDEMEANOR

Charge Description BATTERY  
 Statute BATTERY (FL784.03; )

NCIC Offense Code 1319

Counts 001

Severity MISDEMEANOR

Enhancing Factor 1ST DEGREE

Disposition (Other 2007-05-02; FILED

)

Court Disposition (Cycle 002)

Court Disposition Date 2007-08-02 ( SAME)

Court Case Number 562007MM001341AXXXCO

Court Agency FL056013J

ST. LUCIE COUNTY COURT

Charge 001

Charge Number 001

Charge Tracking Number 5601111928

Charge Literal BATTERY-

Charge Description BATTERY

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Charge Description TRIAL TYPE:NONE  
 Charge Description PLEA TYPE:NOLO CONTENDRE  
 Statute BATTERY (  
 FL784.03  
 ; )  
 NCIC Offense Code 1319  
 Counts 001  
 Severity MISDEMEANOR  
 Enhancing Factor 1ST DEGREE  
 Disposition (Other 2007-08-02; ADJUDICATION WITHHELD  
 )  
 -----  
 Sentencing (Cycle 002)  
 Sentence Date 2007-08-02  
 Sentencing Agency FL056013J ST. LUCIE COUNTY COURT  
 Court Case Number 562007MM001341AXXXCO  
 Charge 001  
 Charge Number 001  
 Charge Literal BATTERY-  
 Sentence  
 PROBATION-001Y  
 ====== Cycle 003 ======  
 Tracking Number 003  
 Earliest Event Date 2007-03-30  
 -----  
 Arrest Date 2007-03-30  
 Arrest Case Number 779  
 Arresting Agency FL0560200  
 PORT ST. LUCIE POLICE DEPARTMENT  
 Arrest Type ADULT  
 Charge 001  
 Charge Number 779  
 Charge Tracking Number 5601112381  
 Charge Literal CONTEMPT OF COURT-  
 Agency FL0560200  
 PORT ST. LUCIE POLICE DEPARTMENT  
 Charge Description VIOL INJUNCTION PROTECTION DOMESTIC VIOLENCE  
 Statute VIOL INJUNCTION PROTECTION DOMESTIC VIOLENCE  
 (FL741.31(4A); FL  
 )  
 NCIC Offense Code 5005  
 Counts 001  
 Severity MISDEMEANOR  
 Inchoate Charge PRINCIPAL  
 Enhancing Factor 1ST DEGREE  
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 Prosecutor Disposition (Cycle 003)  
 Prosecution Date 2007-03-30  
 Prosecutor Agency FL056013J ST. LUCIE COUNTY COURT  
 Charge 001  
 Charge Number 001  
 Charge Tracking Number 5601112381  
 Charge Literal CONTEMPT OF COURT-

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Charge Description Suppl Arr Degree:1ST  
 Charge Description Suppl Arr Level:MISDEMEANOR  
 Charge Description VIOLATION INJUNCTION DOMESTIC  
 Statute VIOL INJUNCTION PROTECTION DOMESTIC VIOLENCE  
 (FL741.31(4A); )  
 NCIC Offense Code 5005  
 Counts 001  
 Severity MISDEMEANOR  
 Enhancing Factor 1ST DEGREE  
 Disposition (Other 2007-05-03; FILED  
)  
-----  
 Court Disposition (Cycle 003)  
 Court Disposition Date 2007-08-02 ( SAME)  
 Court Case Number 562007MM001566AXXXCO  
 Court Agency FL056013J  
 ST. LUCIE COUNTY COURT  
 Charge 001  
 Charge Number 001  
 Charge Tracking Number 5601112381  
 Charge Literal CONTEMPT OF COURT-  
 Charge Description VIOLATION INJUNCTION DOMESTIC  
 Charge Description TRIAL TYPE:NONE  
 Charge Description PLEA TYPE:NOLO CONTENDRE  
 Charge Description VIOL INJUNCTION PROTECTION DOMESTIC VIOLENCE  
 ( FL741.31(4A)  
; )  
 NCIC Offense Code 5005  
 Counts 001  
 Severity MISDEMEANOR  
 Enhancing Factor 1ST DEGREE  
 Disposition (Other 2007-08-02; ADJUDICATION WITHHELD  
)  
-----  
 Sentencing (Cycle 003)  
 Sentence Date 2007-08-02  
 Sentencing Agency FL056013J ST. LUCIE COUNTY COURT  
 Court Case Number 562007MM001566AXXXCO  
 Charge 001  
 Charge Number 001  
 Charge Literal CONTEMPT OF COURT-  
 Sentence PROBATION-001Y  
===== Cycle 004 ======  
 Tracking Number 004  
 Earliest Event Date 2007-11-09  
-----  
 Arrest Date 2007-11-09  
 Arrest Case Number 779  
 Arresting Agency FL0560000  
 ST. LUCIE COUNTY SHERIFF'S OFFICE  
 Arrest Type ADULT

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Charge 001  
 Charge Number 779  
 Charge Tracking Number 5601122576  
 Charge Literal PROB VIOLATION-  
 Agency FL0560000  
 ST. LUCIE COUNTY SHERIFF'S OFFICE  
 Charge Description BATTERY  
 Statute PROB VIOLATION- (FL948.06; FL  
 )

NCIC Offense Code 5012  
 Counts 001  
 Severity Unknown  
 Inchoate Charge PRINCIPAL  
 Disposition (Unknown 2007-11-09;  
 07MM1341)

Charge 002  
 Charge Number 779  
 Charge Literal PROB VIOLATION-  
 Agency FL0560000  
 ST. LUCIE COUNTY SHERIFF'S OFFICE  
 Charge Description VIOLATION OF DOMESTIC VIOLENCE INJUNCTION  
 Statute PROB VIOLATION- (FL948.06; FL  
 )

NCIC Offense Code 5012  
 Counts 001  
 Severity Unknown  
 Inchoate Charge PRINCIPAL  
 Disposition (Unknown 2007-11-09;  
 07MM1566)

===== Cycle 005 =====

Tracking Number 005  
 Earliest Event Date 2010-11-05

Arrest Date 2010-11-05  
 Arrest Case Number 679  
 Arresting Agency FL0560200

PORT ST. LUCIE POLICE DEPARTMENT

Arrest Type ADULT

Charge 001  
 Charge Number 679  
 Charge Tracking Number 5601162982  
 Charge Literal BATTERY-  
 Agency FL0560200  
 PORT ST. LUCIE POLICE DEPARTMENT

Charge Description BATTERY - TOUCH OR STRIKE-DOM VIOL  
 Statute TOUCH OR STRIKE (FL784.03(1A1); FL

)

NCIC Offense Code 1319  
 Counts 001  
 Severity MISDEMEANOR  
 Inchoate Charge PRINCIPAL  
 Enhancing Factor 1ST DEGREE

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Prosecutor Disposition (Cycle 005)  
 Prosecution Date 2010-11-05  
 Prosecutor Agency FL056013J ST. LUCIE COUNTY COURT  
 Charge 001  
     Charge Number 001  
 Charge Tracking Number 5601162982  
     Charge Literal BATTERY-  
     Charge Description Suppl Arr Degree:1ST  
     Charge Description Suppl Arr Level:MISDEMEANOR  
     Charge Description BATTERY  
         Statute BATTERY (FL784.03; )  
     NCIC Offense Code 1319  
         Counts 001  
         Severity MISDEMEANOR  
     Enhancing Factor 1ST DEGREE  
     Disposition (Other 2010-11-23; FILED  
 )

Court Disposition (Cycle 005)  
 Court Disposition Date 2011-02-23  
 Court Case Number 562010MM003585AXXXCO  
 Court Agency FL056013J  
     ST. LUCIE COUNTY COURT  
 Charge 001  
     Charge Number 001  
 Charge Tracking Number 5601162982  
     Charge Literal BATTERY-  
     Charge Description BATTERY  
     Charge Description TRIAL TYPE:NONE  
     Charge Description PLEA TYPE:NOLO CONTENDRE  
         Statute BATTERY (  
             FL784.03  
             ;  
         NCIC Offense Code 1319  
             Counts 001  
             Severity MISDEMEANOR  
         Enhancing Factor 1ST DEGREE  
         Disposition (Convicted 2011-02-23; GUILTY/CONVICTED  
 )

Sentencing (Cycle 005)  
 Sentence Date 2011-02-23  
 Sentencing Agency FL056013J ST. LUCIE COUNTY COURT  
 Court Case Number 562010MM003585AXXXCO  
 Charge 001  
     Charge Number 001  
     Charge Literal BATTERY-

Sentence  
 PROBATION-001Y

===== Cycle 006 ======  
 Tracking Number 006  
 Earliest Event Date 2012-04-10

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Arrest Date 2012-04-10  
 Arrest Case Number 715  
 Arresting Agency FL0560200  
 PORT ST. LUCIE POLICE DEPARTMENT  
 Arrest Type ADULT  
 Charge 001  
     Charge Number 715  
 Charge Tracking Number 5601178045  
     Charge Literal CRUELTY TOWARD CHILD-  
     Agency FL0560200  
 PORT ST. LUCIE POLICE DEPARTMENT  
     Charge Description CRUELTY TOWARD CHILD - DIRECT PROMOTE SEXUAL P  
     Statute DIRECT PROMOTE SEXUAL PERFORMANCE BY CHILD  
     (FL827.071(3) ; FL  
 )  
 NCIC Offense Code 3802  
     Counts 001  
     Severity FELONY  
     Inchoate Charge PRINCIPAL  
     Enhancing Factor 2ND DEGREE  
     Disposition (Unknown 2012-04-10;  
 2012CF001062)  
 Charge 002  
     Charge Number 715  
     Charge Literal LEWD LASCV BEHAVIOR-  
     Agency FL0560200  
 PORT ST. LUCIE POLICE DEPARTMENT  
     Charge Description LEWD LASCV BEHAVIOR - EXHIBITION OFF LESS 18 Y  
     Statute EXHIBITION OFF LESS 18 YOA VICTIM LESS 16 YOA  
     (FL800.04 (7A) ; FL  
 )  
 NCIC Offense Code 3612  
     Counts 001  
     Severity FELONY  
     Inchoate Charge PRINCIPAL  
     Enhancing Factor 3RD DEGREE  
     Disposition (Unknown 2012-04-10;  
 2012CF001064)  
 -----
 Prosecutor Disposition (Cycle 006)  
 Prosecution Date 2012-04-10  
 Prosecutor Agency FL056015A STATE ATTORNEY'S OFFICE - FT. PIERCE  
 Charge 001  
     Charge Number 001  
 Charge Tracking Number 5601178045  
     Charge Literal CRUELTY TOWARD CHILD-  
 Charge Description Suppl Arr Degree:2ND  
 Charge Description Suppl Arr Level:FELONY  
 Charge Description PROMOTING SEXUAL PERFORMANCE BY A CHILD  
     Statute DIRECT PROMOTE SEXUAL PERFORMANCE BY CHILD  
     (FL827.071(3) ; )  
 NCIC Offense Code 3802  
     Counts 001

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Severity	FELONY
Enhancing Factor	2ND DEGREE
Disposition	(Charges Dropped 2012-05-08; DROPPED/ABANDONED)
)	
Prosecution Date	
Prosecutor Agency	FL056015A STATE ATTORNEY'S OFFICE - FT. PIERCE
Charge	002
Charge Number	001
Charge Tracking Number	5601178045
Charge Literal	SEX OFFENSE-AGAINST CHILD-FONDLING-
Charge Description	Suppl Arr Degree:2ND
Charge Description	Suppl Arr Level:FELONY
Charge Description	LEWD LASCIVIOUS OR INDECENT ACT
Statute	LEWD OR LASCIVIOUS MOLEST/CONDUCT/EXHIBITION (FL800.04; )
NCIC Offense Code	3601
Counts	001
Severity	FELONY
Enhancing Factor	2ND DEGREE
Disposition	(Charges Dropped 2012-05-08; DROPPED/ABANDONED)
)	

===== Cycle 007 =====

Tracking Number	007
Earliest Event Date	2012-05-03

Arrest Date	2012-05-03
-------------	------------

Arrest Case Number	773
Arresting Agency	FL0560200
PORT ST. LUCIE POLICE DEPARTMENT	

Arrest Type	ADULT
-------------	-------

Charge	001
Charge Number	773
Charge Tracking Number	5601178675
Charge Literal	OBSCENE MATERIAL-POSSESS-
Agency	FL0560200
PORT ST. LUCIE POLICE DEPARTMENT	
Charge Description	OBSCENE MATERIAL-POSSESS - POSS CONTROL VIEW D
Statute	POSS CONTROL VIEW DEPICTION CHILD SEX CONDUCT (FL827.071(5); FL
)	

NCIC Offense Code	3704
Counts	001
Severity	FELONY
Inchoate Charge	PRINCIPAL
Enhancing Factor	3RD DEGREE
Disposition	(Unknown 2012-05-03;

12CF1315)

Prosecutor Disposition	(Cycle 007)
Prosecution Date	2012-05-03
Prosecutor Agency	FL056015A STATE ATTORNEY'S OFFICE - FT. PIERCE
Charge	001
Charge Number	001

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Charge Tracking Number 5601178675  
 Charge Literal OBSCENE MATERIAL-POSSESS-  
 Charge Description Suppl Arr Degree:2ND  
 Charge Description Suppl Arr Level:FELONY  
 Charge Description POSSESSION OF CHILD PORNOGRAPHY 10 IMAGES OR M  
 Statute POSS CONTROL VIEW DEPICTION CHILD SEX CONDUCT  
 (FL827.071(5) ; )

NCIC Offense Code 3704  
 Counts 001  
 Severity FELONY  
 Enhancing Factor 2ND DEGREE  
 Disposition (Dismissed 2012-10-04; NOLLE PROSSED

) ===== Cycle 008 =====

Tracking Number 008  
 Earliest Event Date 2012-10-04

-----  
 Arrest Date 2012-10-04

Arrest Case Number 698  
 Arresting Agency FL0560000  
 ST. LUCIE COUNTY SHERIFF'S OFFICE

Arrest Type ADULT

Charge 001  
 Charge Number 698  
 Charge Tracking Number 5601183225  
 Charge Literal NEGLECT CHILD-  
 Agency FL0560000  
 ST. LUCIE COUNTY SHERIFF'S OFFICE  
 Charge Description NEGLECT CHILD - WITHOUT GREAT HARM  
 Statute WITHOUT GREAT HARM (FL827.03(3C) ; FL

)  
 NCIC Offense Code 3806  
 Counts 001  
 Severity FELONY  
 Inchoate Charge PRINCIPAL  
 Enhancing Factor 3RD DEGREE  
 Disposition (Unknown 2012-10-04;

12CF1315)

-----  
 Prosecutor Disposition (Cycle 008)  
 Prosecution Date 2012-10-04  
 Prosecutor Agency FL056015J 19TH CIRCUIT COURT - FT. PIERCE  
 Charge 001  
 Charge Number 002  
 Charge Tracking Number 5601183225  
 Charge Literal NEGLECT CHILD-  
 Charge Description Suppl Arr Degree:3RD  
 Charge Description Suppl Arr Level:FELONY  
 Charge Description CHILD NEGLECT  
 Statute NEGLECT CHILD- (FL827.03(3A) ; )  
 NCIC Offense Code 3806  
 Counts 001  
 Severity FELONY

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Enhancing Factor 3RD DEGREE  
 Disposition (Other 2012-10-04; FILED  
 )  
 -----  
 Court Disposition (Cycle 008)  
 Court Disposition Date 2012-10-04 ( SAME)  
 Court Case Number 562012CF001315AXXXXX  
 Court Agency FL056015J  
 19TH CIRCUIT COURT - FT. PIERCE  
 Charge 001  
 Charge Number 002  
 Charge Tracking Number 5601183225  
 Charge Literal NEGLECT CHILD-  
 Charge Description CHILD NEGLECT  
 Charge Description TRIAL TYPE:NONE  
 Charge Description PLEA TYPE:NOLO CONTENDRE  
 Statute NEGLECT CHILD- (

FL827.03(3A)  
 ; )  
 NCIC Offense Code 3806  
 Counts 001  
 Severity FELONY  
 Enhancing Factor 3RD DEGREE  
 Disposition (Other 2012-10-04; ADJUDICATION WITHHELD  
 )  
 -----  
 Sentencing (Cycle 008)  
 Sentence Date 2012-10-04  
 Sentencing Agency FL056015J 19TH CIRCUIT COURT - FT. PIERCE  
 Court Case Number 562012CF001315AXXXXX  
 Charge 001  
 Charge Number 002  
 Charge Literal NEGLECT CHILD-  
 Sentence CONFINEMENT-006M (MAX) IN COUNTY  
 Sentence CREDITED TIME-4320 DAYS  
 Sentence PROBATION-004Y006M  
 ====== Cycle 009 ======  
 Tracking Number 009  
 Earliest Event Date 2012-10-05  
 -----  
 Arrest Date 2012-10-05  
 Arresting Agency FL0560000  
 ST. LUCIE COUNTY SHERIFF'S OFFICE  
 Arrest Type ADULT  
 Charge 001  
 Charge Tracking Number 0014496741  
 Charge Literal CRIMINAL REGISTRATION (NOT AN ARREST)-  
 Agency FL0560000  
 ST. LUCIE COUNTY SHERIFF'S OFFICE  
 Charge Description \*\*\*\* THE FOLLOWING IS A STATUS RECORD -- NOT AN

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## ARREST \*\*\*\*

Charge Description CRIMINAL REGISTRATION NOT AN ARREST - CHILD  
 NCIC Offense Code 9040  
 Counts 001  
 Severity Unknown  
 Disposition (Not Prosecuted 2012-10-05; NOT PROSECUTED  
 RELEASED

)

===== Cycle 010 =====

Tracking Number 010  
 Earliest Event Date 2016-12-01

-----  
 Arrest Date 2016-12-01  
 Arrest Case Number 740  
 Arresting Agency FL0560200  
 PORT ST. LUCIE POLICE DEPARTMENT  
 Arrest Type ADULT

Charge 001  
 Charge Number 740  
 Charge Tracking Number 5601224438  
 Charge Literal LEWD LASCV BEHAVIOR-  
 Agency FL0560200  
 PORT ST. LUCIE POLICE DEPARTMENT  
 Charge Description LEWD LASCV BEHAVIOR - MOLEST VIC LESS 12YOA  
 OFFENDER 18  
 Statute MOLEST VIC LESS 12YOA OFFENDER 18 YOA OR OLDER  
 (FL800.04(5B); FL

)

NCIC Offense Code 3612  
 Counts 001  
 Severity FELONY  
 Inchoate Charge PRINCIPAL  
 Enhancing Factor LIFE  
 Disposition (Unknown 2016-12-01;  
 16CF3220A)

-----  
 Prosecutor Disposition (Cycle 010)  
 Prosecution Date 2016-12-01  
 Prosecutor Agency FL056015J 19TH CIRCUIT COURT - FT. PIERCE  
 Charge 001  
 Charge Number 001  
 Charge Tracking Number 5601224438  
 Charge Literal LEWD LASCV BEHAVIOR-  
 Charge Description Suppl Arr Degree:LIFE  
 Charge Description Suppl Arr Level:FELONY  
 Charge Description LEWD OR LASCIVIOUS MOLESTATION OFFENDER 18 OR  
 Statute MOLEST VIC LESS 12YOA OFFENDER 18 YOA OR OLDER  
 (FL800.04(5B); )  
 NCIC Offense Code 3612  
 Counts 001  
 Severity FELONY  
 Enhancing Factor LIFE  
 Disposition (Other 2016-11-22; FILED

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\*\*\*\*\* INDEX OF AGENCIES \*\*\*\*\*

Agency PORT ST. LUCIE POLICE DEPARTMENT  
; FL0560200;

UNKNOWN CONTACT

Address

-----  
Agency STATE ATTORNEY'S OFFICE - FT. PIERCE  
;  
FL056015A;  
19TH JUDICIAL CIRCUIT

Address

-----  
Agency ST. LUCIE COUNTY COURT  
; FL056013J;  
UNKNOWN CONTACT

Address

-----  
Agency ST. LUCIE COUNTY SHERIFF'S OFFICE  
; FL0560000;  
UNKNOWN CONTACT

Address

-----  
Agency 19TH CIRCUIT COURT - FT. PIERCE  
; FL056015J;  
221 SOUTH INDIAN RIVER DRIVE, ROOM 206 - ZIP  
33450

Address

\* \* \* END OF RECORD \* \* \*

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